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U.S. DISTRICT COURT  
DISTRICT OF WYOMING

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CHEYENNE

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

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ENVIRONMENTAL SALES & SERVICE,  
INC.,

Plaintiff,

v.

KATCH KAN USA, LLC, and KATCH KAN  
HOLDINGS USA, INC.,

Defendants.

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**NOTICE OF REMOVAL**

Case No. *14 CV 118-F*

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Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants Katch Kan USA, LLC and Katch Kan Holdings USA, Inc. (collectively referred to herein as “Katch Kan” or “Defendants”) give notice of removal of this action from the Ninth Judicial District Court, Sublette County, State of Wyoming to the United States District Court for the District of Wyoming. Katch Kan submits that original subject matter jurisdiction exists in the United States District Court for the District of Wyoming based on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

Plaintiff Environmental Sales & Service, Inc. (“Plaintiff”) served the Summons and Complaint on Katch Kan on May 24, 2014. Copies of the Summons and Complaint are attached hereto as Exhibit A. Removal is timely because, under 28 U.S.C. § 1446(b), the Notice of Removal of a civil action shall be filed within thirty days after the receipt by the defendant, through service, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. Because Katch Kan was served on May 24, 2014, this Notice of Removal is timely filed within the thirty-day period provided under 28 U.S.C. § 1446(b).

Pursuant to 28 U.S.C. § 1446(d), Katch Kan will file a copy of this Notice of Removal with the Ninth Judicial District Court for the State of Wyoming at or about the same time that this Notice of Removal is filed. A copy of all removal papers will also be served on counsel for Plaintiff.

This matter is removable because there is diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). Diversity jurisdiction exists “where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between (1) citizens of different States; . . .” 28 U.S.C. § 1332(a)(1). Plaintiff alleged in its Complaint that “at all material times relevant to

this Complaint” it was a corporation organized and incorporated under the laws of Wyoming and that its principal place of business was in Wyoming. (Compl. ¶ 1.) Based on this allegation, Plaintiff is a citizen of Wyoming for purposes of determining diversity jurisdiction.

Defendant Katch Kan Holdings USA, Inc. is a citizen of Texas because it is incorporated under the laws of Texas and has its primary place of business in Texas. Defendant Katch Kan USA, LLC is a limited liability company. For diversity jurisdiction purposes, a limited liability company is deemed to be a citizen of all of the states of which its members are citizens. *See Pramco, L.L.C. v. San Juan Bay Marina, Inc.*, 435 F.3d 51, 54 (1st Cir. 2006) (noting that every circuit to consider the issue has held that citizenship of a limited liability company is determined by the citizenship of all of its members). Katch Kan USA, LLC has two members: Defendant Katch Kan Holdings, USA, Inc. and MCAM, Inc. As set forth above, Defendant Katch Kan Holdings, USA, Inc. is a citizen of Texas. Similarly, MCAM, Inc. is also a citizen of Texas because it is incorporated under the laws of Texas and has its primary place of business in Texas. As such, defendant Katch Kan USA, LLC is a citizen of Texas for purposes of determining diversity jurisdiction. Plaintiff and Defendants are citizens of different states and diversity jurisdiction therefore exists.

In its Complaint, Plaintiff alleges claims for breach of contract, breach of the covenant of good faith and fair dealing, breach of an implied-in-fact contract, breach of fiduciary duty, unjust enrichment, tortious interference with contract or prospective business advantage, and negligent misrepresentation. Plaintiff’s Complaint does not set forth the amount of damages which it seeks but as part of its allegations in the Complaint, Plaintiff alleges that Katch Kan’s conduct

prevented it from selling a portion of its territory to a buyer “for \$3,700,000 plus all related equipment (approximately \$5 million total).” (Compl. ¶¶ 25, 68, 73, 78.) Plaintiff claims damages for, among other things, “[d]isgorgement of all profits under the Agreement,” “the value of both the direct and indirect benefits bestowed upon defendants,” and “actual, incidental and consequential damages.” (Compl. ¶ 129.) Plaintiff also seeks punitive damages and attorneys’ fees. (Compl. ¶ 129.) Thus, the amount in controversy exceeds the \$75,000 statutory requirement.

Based on the foregoing, the United States District Court for the District of Wyoming has jurisdiction over this action under 28 U.S.C. § 1332, and this action may be removed to Federal Court pursuant to 28 U.S.C. § 1441.

DATED this 13th day of June, 2014.

RAY QUINNEY & NEBEKER P.C.

A handwritten signature in blue ink, appearing to read "David H. Leigh", is written over a horizontal line.

David H. Leigh  
Michael W. Spence  
Greggory S. Savage

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of June, 2014, a true and correct copy of the foregoing **NOTICE OF REMOVAL** has been forwarded to all counsel of record via:

<input type="checkbox"/> Hand Delivery	Mel C. Orchard, III
<input checked="" type="checkbox"/> U.S. Mail	Tyson E. Logan
<input type="checkbox"/> Fax Transmission	THE SPENCE LAW FIRM, LLC
<input type="checkbox"/> E-mail Transmission	PO Box 548
<input checked="" type="checkbox"/> CM-ECF	15 S. Jackson St.
	Jackson, WY 83001

A handwritten signature in blue ink, appearing to be 'M. Orchard', is written over a horizontal line.

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